*THE HON'BLE SRI JUSTICE B. PRAKASH RAO

+WRIT PETITION No. 8051 OF 1998

%15-12-2004

P. VENKATA SWAMY.

..PETITIONER

Vs.

$ 1. THE APSRTC REP. BY ITS MANAGING DIRECTOR,

MUSHIRABAD, HYDERABAD.

2. THE REGIONAL MANAGER, APSRTC, MAHABUBNAGAR.

..RESPONDENTS

<GIST

>HEAD NOTE:

!COUNSEL FOR PETITIONER:MR. A.K.JAYAPRAKASH RAO

^COUNSEL FOR RESPONDENTS : MR.P. VINAYAKA SWAMY, SC FOR APSRTC.

?CASES REFERRED:

NIL

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 8051 of 1998

Between:

P. Venkata Swamy S/o. P. Ramulu
R/o. Vanaparti, Mahabubnagar Dist.

..... PETITIONER

AND

1 The A.P. State Road Transport Corporation, represented

by its Managing Director, Mushirabad, Hyderabad.
2 The Regional Manager, A.P.S.R.T.C., Mahabubnagar.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records from the 2nd respondent and issue an appropriate writ, order or direction, particularly in the nature of WRIT OF MANDAMUS, declaring the action of the 2nd respondent in not communicating the result of the medical examination to the petitioner and in not issuing the appointment letter having provisionally selected the petitioner to the post of conductor as illegal, unjust, contrary to law, arbitrary and violative of Articles 14, 16 and 21 of the Constitution of India and direct the 2nd respondent to appoint the petitioner as conductor or give him any other suitable post and grant all consequential benefits.

Counsel for the Petitioner:MR.A.K.JAYAPRAKASH RAO

Counsel for the Respondents: MR.P. VINAYAKA SWAMY, SC FOR APSRTC.

The Court made the following :

–

–

–

–

–

ORDER:

This Writ Petition is filed by the petitioner, *inter alia,* seeking a writ of

mandamus declaring the action of the 2nd respondent in not communicating the result of the medical examination to him as illegal and unjust, and direct the 2nd respondent to appoint him as a Conductor on compassionate grounds.

The facts in brief are as follows:-

The father of the petitioner worked as a driver in the 1st respondent-Corporation. During the course of his employment, he sustained injuries as a result of an accident, which occurred on 14-6-1990 and became physically crippled. Ultimately, he was declared unfit to the post of driver as per the proceedings dated 27-6-1994. In view of the same, the petitioner's father requested the 1st respondent-Corporation that his son may be appointed on compassionate grounds. Since no orders were passed by the 1st respondent-Corporation, the petitioner's father filed W.P.No.27201 of 1995 and the same was allowed by this Court as per the order dated 18-7-1996 directing the respondents to consider the representation of petitioner's father and consider for appointing the petitioner in any suitable post in the 1st respondent-Corporation. As per the orders of this Court, the 2nd respondent issued provisional orders selecting the petitioner and he had undergone medical examination on 22-12-1997. Subsequently, the petitioner was neither informed about the result nor informed with any reason as to why he has not been appointed. Then, he issued a legal notice dated 20-02-1998 to the 2nd respondent. Since no action has been taken so far by the respondent-Corporation, he filed the present writ petition.

In the counter-affidavit filed by Mr. M. Narayana, Chief Law Officer of the 1st respondent-Corporation, it was stated that in pursuance of the orders in W.P.No.27201 of 1995, the case of the petitioner was considered and he was directed to appear before the Director (Medical), A.P.S.R.T.C., Tarnaka Hospital for medical examination. Accordingly, the petitioner appeared before the said authority and after examination, the hospital authorities issued a medical certificate to the effect that he was found medically unfit for the post of the conductor due to defective vision. The same was informed to the petitioner orally in-person when he attended the office of the Regional Manager. It was further stated that usually in cases of this nature, the parties are informed

orally and were asked to submit an appeal for consideration before the Medical Board in terms of Circular No.PD71/89 dated 20-6-1989. Similarly, the petitioner was also advised to prefer an appeal before the Medical Board within a period of three months from the date of medical examination. But, instead of preferring an appeal, the petitioner has filed this writ petition.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents.

The learned Standing Counsel appearing on behalf of the respondents submitted that in fact the policy of appointments on compassionate grounds has no application to the employees who retired from service on medical grounds. As such, there are no grounds to consider the petitioner's case.

After considering the submissions made on either side and on perusal of the material on record, the only question that falls for consideration is whether the 1st respondent-Corporation is entitled to reject the case of the petitioner seeking appointment on compassionate grounds, only on oral instructions?

There is no dispute that the petitioner's father was an employee of the 1st respondent-Corporation and as a result of the accident, he became physically crippled and ultimately, declared unfit for the post of driver. Therefore, he sought for appointment of his son on compassionate grounds. Since no action was taken by the 1st respondent-Corporation, he filed W.P.No.27201 of 1995, and the same was allowed. It is also not in dispute that as per the orders of this Court, the petitioner was medically examined. However he was orally informed that he was unfit for the post of conductor due to defective vision. A specific plea is sought to be raised through the counter-affidavit by the Law Officer of the 1st respondent-Corporation that the petitioner on such intimation was orally advised to file an appeal and usually, in cases of this nature, the parties are orally informed. But, it is too difficult to accept that a statutory authority would choose such recourse of intimating the parties by oral communication. Basically, statutory functioning cannot be on oral actions. Further, where substantive rights of the parties are involved, the decision making process must be expressed in writing alone. The party is entitled to know the resultant decision, with specific findings, supported by the reasons. Even laconic orders, though in writing, bereft of reasons are held to be bad. Therefore, the alleged

act of passing orders orally and communicating the same by orally is unsustainable and should be deprecated. Such course by the authorities should not be encouraged, since it leaves amply open choice for them to resile at later stage as per convenience. There is absolutely no justification in raising such a defence by the respondents at this stage. Further, it is not open for a statutory authority, in a system governed by a rule of law to apprise the parties about the matter orally. In the circumstances, it is held that the procedure of oral orders and communication thereof orally is wholesome bad and violation of Article 14 of the Constitution of India.

Accordingly, the Writ Petition is allowed and the 2nd respondent is directed to consider the case of the petitioner for appointment in the 1st respondent-Corporation in any suitable post. The entire exercise shall be done within a period of two months from the date of receipt of a copy of this order. No costs.

_____

15-12-2004

Note:

LR copy to be marked.

B/o

SJ

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this

Wednesday, the Fifteenth day of December, Two thousand and four.

REGISTRAR

To

1. One fair copy to the Honourable Mr. Justice B. Prakash Rao (For his Lordships kind perusal.)

2. The Managing Director, A.P. State Road Transport Corporation, Mushirabad, Hyderabad.

3. The Regional Manager, A.P.S.R.T.C., Mahabubnagar. (with records)

4. Two C.D. copies.

5. 8 L.R. copies.

6. The Under Secretary, Union of India, Ministry of Law, Justice and Company Affairs, New Delhi.

7. The Secretary, A.P.Advocate's Association Library, High Court Buildings, Hyderabad.